

AMENDED IN ASSEMBLY AUGUST 18, 2000

SENATE BILL

No. 1957

Introduced by Senator Burton

February 24, 2000

~~An act to amend Section 25503.23 of the Business and Professions Code, relating to alcoholic beverages. An act to add Sections 25000.7 and 25000.9 to the Business and Professions Code, relating to alcoholic beverages.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1957, as amended, Burton. Alcoholic beverages: advertising space.

The Alcoholic Beverage Control Act licenses and regulates beer manufacturers and wholesalers.

This bill would provide that no sale or distribution agreement between a beer manufacturer and beer wholesaler shall be terminated solely for a beer wholesaler's failure to meet a sales goal or quota that is not commercially reasonable under the prevailing market conditions.

This bill also would provide that a beer manufacturer who unreasonably withholds consent or unreasonably denies approval of a sale, transfer, or assignment of any ownership interest in a beer wholesaler's business with respect to that manufacturer's brand or brands, shall be liable in damages to the beer wholesaler, as specified.

~~Existing law generally restricts certain alcoholic beverage licensees, including manufacturers and winegrowers, from paying, crediting, or compensating a retailer for advertising in connection with the advertising and sale of distilled spirits. Existing law permits, however, a beer manufacturer or~~

~~winegrower to purchase advertising space and time from, or on behalf of, an on-sale retail licensee who is the owner of a stadium with a fixed seating capacity in excess of 3,000 seats, during the use of the stadium for an annual water ski show.~~

~~This bill would provide that any holder of a beer manufacturer's or winegrower's license who through coercion or other illegal means, induces a holder of a beer or wine wholesaler's license to fulfill the contractual obligations entered into pursuant to the above provisions is guilty of a misdemeanor, thus imposing a state-mandated local program by creating a new crime.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes no. State-mandated local program: yes no.~~

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 25503.23 of the Business and~~
- 2 ~~SECTION 1. Section 25000.7 is added to the Business~~
- 3 ~~and Professions Code, to read:~~
- 4 ~~25000.7. (a) Notwithstanding the provisions of any~~
- 5 ~~agreement for the sale or distribution of beer between a~~
- 6 ~~beer manufacturer and beer wholesaler, no sale or~~
- 7 ~~distribution agreement shall be terminated solely for a~~
- 8 ~~beer wholesaler's failure to meet a sales goal or quota that~~
- 9 ~~is not commercially reasonable under the prevailing~~
- 10 ~~market conditions.~~
- 11 ~~(b) For purposes of this section, "beer manufacturer"~~
- 12 ~~includes any holder of a beer manufacturer's license, any~~
- 13 ~~holder of an out-of-state beer manufacturer's certificate,~~
- 14 ~~or any holder of a beer and wine importer's general~~
- 15 ~~license.~~
- 16 ~~SEC. 2. Section 25000.9 is added to the Business and~~
- 17 ~~Professions Code, to read:~~

1 25000.9. (a) Any beer manufacturer who
2 unreasonably withholds consent or unreasonably denies
3 approval of a sale, transfer, or assignment of any
4 ownership interest in a beer wholesaler's business with
5 respect to that manufacturer's brand or brands, shall be
6 liable in damages to the beer wholesaler. Recoverable
7 damages under this section shall not exceed the
8 compensatory damages sustained by the wholesaler and
9 the wholesaler's costs of suit. The fair market value of the
10 beer wholesaler's business shall include, but is not limited
11 to, its goodwill, if any.

12 (b) If a beer wholesaler has been paid a consideration
13 by a successor wholesaler for the sale, transfer, or
14 assignment of the beer wholesaler's interest in the sale or
15 distribution of the affected brand or brands, the beer
16 manufacturer shall be liable only for compensatory
17 damages in an amount reflecting the difference in the
18 amount already paid to the beer wholesaler, and the fair
19 market value of the beer wholesaler's business with
20 respect to the affected brand or brands.

21 (c) For purposes of this section, "beer manufacturer"
22 includes any holder of a beer manufacturer's license, any
23 holder of an out-of-state beer manufacturer's certificate,
24 or any holder of a beer and wine importer's general
25 license.

26 ~~Professions Code is amended to read:~~

27 ~~25503.23. (a) Notwithstanding any other provision of~~
28 ~~this chapter, a beer manufacturer or winegrower may~~
29 ~~purchase advertising space and time from, or on behalf of,~~
30 ~~an on-sale retail licensee who is the owner of a stadium~~
31 ~~with a seating capacity in excess of 3,000 seats during the~~
32 ~~use of the stadium for an annual water ski show.~~

33 ~~(b) Any holder of a beer manufacturer's or~~
34 ~~winegrower's license who through coercion or other~~
35 ~~illegal means, induces a holder of a beer or wine~~
36 ~~wholesaler's license to fulfill the contractual obligations~~
37 ~~entered into pursuant to subdivision (a) is guilty of a~~
38 ~~misdemeanor and shall be punished by imprisonment in~~
39 ~~the county jail not exceeding six months, or by a fine in~~
40 ~~an amount equal to the entire value of the advertising~~

~~space or time involved in the contract plus ten thousand dollars (\$10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.~~

~~SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.~~

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CORRECTIONS

~~_____~~
Digest — Vote Key.

